

<input checked="" type="checkbox"/> IDAPA RULE	<input checked="" type="checkbox"/> IDAPA FEE	<input checked="" type="checkbox"/> BOARD ACTION REQUIRED
<input type="checkbox"/> BOARD POLICY	<input type="checkbox"/> INFO ONLY, NO ACTION REQUIRED	

AGENDA
Idaho Park and Recreation Board Meeting
February 23rd-24th, 2022
IDPR Headquarters
5657 Warm Springs Ave.
Boise, ID 83716

AGENDA ITEM: Administrative Fee Rules for Post-*Sine Die*

ACTION REQUIRED: Notice of Adoption of Temporary Fee Rules

PRESENTER: Seth Hobbs, Rules Review Officer

BACKGROUND INFORMATION:

In order to ensure the continuity of administrative rules following the adjournment of the 2022 Legislative session, the board must reauthorize the fee rules. While the board must take these steps now, these temporary fee rules are conditional and will only become effective at *sine die* if the pending fee rules submitted to the 2022 Legislative session are not otherwise approved or rejected in part by the concurrence of the Legislature. Reference: Attachment A 2022 Sine Die Fee Rules Notice Memo.

STAFF RECOMMENDATIONS:

Staff recommends that the board authorize the notice containing the following temporary fee rules found in Attachment B 2022 Omnibus Temporary Fee Notice IDAPA 26.

- 26.01.10, Rules Governing the Administration of Temporary Permits on Land Owned by the Idaho Department of Parks and Recreation
- 26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities
- 26.01.33, Rules Governing the Administration of the Land and Water Conservation Fund Program.

MOTION:

DFM has provided the following motion:

“Pursuant to Section 67-5226, Idaho Code, the Governor has found that temporary adoption of these rules is appropriate to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens.

These rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws.

The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

The Governor has also found that the fees or charges being imposed or increased are justified and necessary to avoid immediate danger to the department’s budget, to the state budget, to necessary state functions and services, and to avoid immediate danger of a potential violation of Idaho’s constitutional requirement that it balance its budget.

Therefore, we are adopting these temporary rules to be effective upon *sine die* of the 2022 session of the Idaho Legislature. This action is conditional and will only become effective if the rules are not otherwise approved or rejected in part by the Legislature.”



State of Idaho
DIVISION OF FINANCIAL MANAGEMENT
Executive Office of the Governor

BRAD LITTLE
Governor

ALEX J. ADAMS
Administrator

February 9, 2022

MEMORANDUM

TO: Executive Branch Agency/Department Heads
Rules Review Officers

FROM: Alex J. Adams

A handwritten signature in cursive script, reading "Alex J. Adams".

SUBJECT: **Preparing Administrative Fee Rules for Post-*Sine Die***

Once more, in order to ensure the continuity of administrative rules following the adjournment of the 2022 Legislative session, this memo outlines the fee rule reauthorization process that agencies will need to complete prior to **February 28, 2022**. While each agency must take these steps now, these temporary fee rules are conditional and will only become effective at *sine die* if the pending fee rules submitted to the 2022 Legislative session are not otherwise approved or rejected in part by concurrence of the Legislature.

1. Agencies must submit a completed Notice of Adoption of Temporary Rule form to DFM by February 28th.
 - A template Notice is enclosed for fee rules.
 - Rules should be adopted as submitted to the 2022 Legislature.
 - a. Fee Rules expire upon *sine die* if not approved by the legislature.
 - b. Non-Fee Rules are likely to become final and effective unless specifically rejected by concurrent resolution of both the House and Senate.
 - No ARRF will be required.
 - Please submit completed Notices to adminrules@dfm.idaho.gov.
2. If rulemaking authority is vested in a board or commission – not agency staff – the board or commission must convene to properly authorize the Notice. This is required by law. Please work closely with your attorney to ensure the Notice is properly authorized.
 - The meeting must be scheduled in a timeframe to submit a completed Notice to DFM prior to the February 28th deadline.
 - The motion should be made as follows:

“Pursuant to Section 67-5226, Idaho Code, the Governor has found that temporary adoption of this rule is appropriate to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens.

These rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws.

The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

The Governor has also found that the fee(s) or charge(s) being imposed or increased is/are justified and necessary to avoid immediate danger to the agency/department/board/commission's budget, to the state budget, to necessary state functions and services, and to avoid immediate danger of a potential violation of Idaho's constitutional requirement that it balance its budget.

Therefore, we are adopting this temporary rule to be effective upon *sine die* of the 2022 session of the Idaho Legislature. This action is conditional and will only become effective if the rules are not otherwise approved or rejected in part by the Legislature.”

3. DFM will publish the fee notices of temporary rulemaking shortly after *sine die* with the rules having an effective date as of *sine die*.
4. For these temporary rules only, agencies do not have to accept written comments pursuant to Idaho Code § 67-5222(a) as its requirement and deadline applies to “publication of the notice of *proposed* rulemaking in the bulletin” (emphasis added). The fee rules were acted upon in open public meetings/hearings that allowed public comment throughout the 2021 rulemaking process.
5. Each agency must keep all records of this rulemaking process for at least two (2) years pursuant to Idaho Code § 67-5225. Please ensure the record is thorough and complete.

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

DOCKET NO. 26-0000-2200 (*Fee Rule*)

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF TEMPORARY FEE RULE

EFFECTIVE DATE: The effective date of the temporary rule being adopted through this omnibus rulemaking as listed in the descriptive summary of this notice is upon the adjournment date of the second regular session of the 66th Idaho State Legislature (*sine die*).

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 67-4223, 67-7115, and 67-7116 Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This temporary rulemaking adopts and publishes the following rule chapter(s) previously submitted to and reviewed by the Idaho Legislature under IDAPA 26, rules of the Idaho Department of Parks and Recreation:

IDAPA 26

- 26.01.10, Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation;
- 26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities; and
- 26.01.33, Rules Governing the Administration of the Land and Water Conservation Fund Program.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a)-(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. The temporary rule chapters implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rule chapters without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed through this rulemaking is justified and necessary to avoid immediate danger and the fee is described herein

The fee(s) or charge(s), authorized in Sections 67-4223, 67-7115, and 67-7116, Idaho Code, are part of the agency's 2023 budget that relies upon the existence of the fee(s) or charge(s) to meet the state's obligations and provide necessary state services. Failing to reauthorize these temporary rule chapters would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. The following is a specific description of the fee(s) or charge(s):

- IDAPA 26.01.10, Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation. Fees related to temporary permit processing, compensation, application and enforcement.
 - IDAPA 26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities. Fees related to motor vehicle entrance, parking violations, camping, reservations (placing, modifying, and
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canceling), vessel moorage, overnight use, surcharges, group facility use, winter access, returned checks, and winter recreation programs.

- IDAPA 26.01.33, Rules Governing the Administration of the Land and Water Conservation Fund Program. Service fee to administer and manage the process to convert the property from a recreation use.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Seth Hobbs (208) 514-2427, seth.hobbs@idpr.idaho.gov.

DATED this *(date will be inserted to match publication date)*.

Seth Hobbs, Rules Review Officer
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